

## FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

## DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. Assembly Bill (AB) 1796 was signed into law by the governor on September 29, 2004. Chapter 932, Statutes of 2004 amended the Welfare and Institutions Code to add Section 18901.3. These mandatory changes to the Food Stamp Program extend federal food stamp eligibility to persons convicted of felony drug offenses involving the use or possession of a controlled substance.
2. Chapter 932, Statutes of 2004 required the California Department of Social Services (CDSS) to implement these changes to the Food Stamp Program through an All-County Letter (ACL), or similar instructions from the Director, no later than January 1, 2005. CDSS implemented these changes via ACL 04-59, dated December 30, 2004. This legislation also required CDSS to adopt regulations as otherwise necessary to implement these provisions no later than July 1, 2005.
3. The nonemergency rulemaking process, as defined in the Administrative Procedures Act, is sufficiently lengthy as to not enable these regulations to be implemented by July 1, 2005. Chapter 932, Statutes of 2004 permits emergency regulations adopted for implementation of this section in accordance with the Administrative Procedure Act. The adoption of emergency regulations shall be deemed to be an emergency and necessary for immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.
4. California's Food Stamp Program serves a needy population who require access to nutritional foods. CDSS could be at risk of legal action from individuals who are eligible for benefits, but not granted benefits, if there is any delay in implementation of these regulation changes.

## INFORMATIVE DIGEST

Federal law prohibits extending food stamp benefits to individuals with felony drug convictions occurring after August 22, 1996 unless a state opts out of the prohibition by passing a state law. The intent of AB 1796 was to opt out of the federal prohibition, partially modifying the federal ban, so that felony drug convictions for use or possession would not cause ineligibility in California. Passage of this legislation resulted in changes to Welfare and Institutions Code Section 18901.3, extending food stamp benefits to individuals convicted of felony drug offenses for the use or possession of a controlled substance, provided they meet additional specified conditions of eligibility. Individuals with felon drug convictions occurring after August 22, 1996 for unlawfully transporting, importing, selling, furnishing, administering, giving away, possessing for sale, purchasing for purposes of sale, or manufacturing a controlled substance, continue to be ineligible for food stamp assistance in California.

## COST ESTIMATE

1. Costs or Savings to State Agencies: Additional expenditures of \$28,000 in the current state fiscal year (SFY).
2. Costs to Local Agencies or School Districts: A nominal increase of \$11,000 in local expenditures for food stamp administration.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: Additional expenditures of \$36,000 in the current SFY.

## LOCAL MANDATE STATEMENT

These regulations impose a mandate upon local agencies, but not school districts. There may be state-mandated local costs which require federal and state reimbursement due to increased administrative costs under Section 17500 et seq. of the Government Code. The local agencies, State, and Federal agencies share administrative costs. Increased costs in benefits are paid entirely by the Federal government.

## AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 18904. Subject regulations implement and make specific Welfare and Institutions Code Section 18901.3 and Assembly Bill 1796 (Chapter 932, Statutes of 2004).